

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WORCESTER, SS

CIVIL ACTION NO.:

\*\*\*\*\*

DIANE BOOTH and JAMES BOOTH,  
Plaintiffs,

v.

WILLIAM F. SCANNELL, JR., ESQ.;  
ANTHONY SALERNO, ESQ. and  
SCANNELL AND SALERNO,  
Defendants.

05-40134 EDS

\*\*\*\*\*

PLAINTIFF'S COMPLAINT

1. The Plaintiff is Diane Booth, a resident of 11565-D Decatur Street,  
Westminster, CO.
2. The Plaintiff is James Booth, a resident of 11565-D Decatur Street,  
Westminster, CO.
3. The Defendant is William F. Scannell, Jr., now or formally a resident of 156  
Newell Road, Holden, County of Worcester, Massachusetts and/or 316 Main  
Street, Worcester, Massachusetts.
4. The Defendant is Anthony Salerno, now or formally a resident of 316 Main  
Street, Worcester, Massachusetts.

RECEIPT # 404630  
AMOUNT \$ 250.00  
SUMMONS ISSUED 3  
LOCAL RULE 4.1 ✓  
WAIVER FORM ✓  
MCF ISSUED ✓  
BY DPTY. CLK. SP1  
DATE 8/10/05

5. The Defendant is Scannell and Salerno, at all relevant times a law firm/business entity/partnership/corporation doing business at/or near 316 Main Street, Worcester, Massachusetts 01608.
6. This civil complaint seeks compensation on behalf of both Plaintiffs, Diane Booth and James Booth, relative to legal malpractice/professional malpractice and breach of contract of each defendant, including William F. Scannell, Jr., Individually, Anthony Salerno, Individually and the law firm/business known as Scannell and Salerno.
7. The matter in controversy exceeds \$75,000.00 for each individual Plaintiff, and said controversy is between citizens of different states pursuant to 28 USC 1332.

#### **COUNT I**

#### **DIANE BOOTH - NEGLIGENCE AGAINST**

#### **WILLIAM F. SCANNELL, JR.**

8. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-7 of this Complaint.
9. On or about March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident

occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.

10. On or about February 25, 2000, the Plaintiff, Diane Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.
11. On or about February 25, 2000, the Plaintiff, James Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.
12. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Scannell, Attorney Salerno and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.
13. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P. 4 subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process, failed to properly plead for the appropriate and necessary relief from the Superior Court concerning service of process and otherwise negligently breached their duty to each Plaintiff and breached their contract.

14. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.
15. Furthermore, the Defendant, William F. Scannell, Jr., Esq., Anthony Salerno, Esq. and/or Scannell and Salerno negligently failed to timely inform and advise the Booths of the dismissal of their case by the Superior Court which deprived each Plaintiff of an opportunity to intervene on their own.
16. The aforementioned failures constitute a breach of duty by Attorney William F. Scannell, Jr., Attorney Anthony Salerno and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.
17. The aforementioned breaches of duty of Attorney Scannell, Attorney Salerno and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court and ensuing loss of damages.
18. The Booth's did not learn of the dismissal of their case until July, 2004.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Attorney William F. Scannell, Jr., in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT II**

**DIANE BOOTH - NEGLIGENCE AGAINST**

**ANTHONY SALERNO**

19. The Defendant, Diane Booth incorporates by reference Paragraphs 1-18 of the Complaint.
20. On or about March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.
21. On or about February 25, 2000, the Plaintiff, Diane Booth, retained Attorney Anthony Salerno, Attorney William F. Scannell, Jr., and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.
22. On or about February 25, 2000, the Plaintiff, James Booth, retained Attorney Anthony Salerno, Attorney William F. Scannell, Jr., and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.
23. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Salerno, Attorney Scannell and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.

24. Attorney Salerno, Attorney Scannell and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P. 4 and subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process failed to properly plead for the appropriate and necessary relief from the Superior Court concerning service of process and otherwise negligently breached their duty to each Plaintiff and their contractual obligations.
25. Attorney Salerno, Attorney Scannell and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.
26. Furthermore, the Defendant, Anthony Salerno, Esq., William F. Scannell, Jr., Esq. and/or Scannell and Salerno negligently failed to timely inform and advise the Booth's of the dismissal of their case by the Superior Court which deprived each Plaintiff of an opportunity to intervene on their own.
27. The aforementioned failures constitute a breach of duty by Attorney Anthony Salerno, Attorney William F. Scannell, Jr., and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.

28. The aforementioned breaches of duty of Attorney Salerno, Attorney Scannell and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court.

29. The Booth's did not learn of the dismissal of their case until July, 2004.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Attorney Anthony Salerno in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

### **COUNT III**

#### **DIANE BOOTH - NEGLIGENCE AGAINST SCANNELL AND SALERNO**

30. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-29 of the Complaint.

31. On or about March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.

32. On or about February 25, 2000, the Plaintiff, Diane Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of

Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.

33. On or before February 25, 2000, the Plaintiff, James Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.
34. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Scannell, Attorney Salerno and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.
35. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P. 4, subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process, failed to properly plead for the appropriate and necessary relief from the Superior Court concerning service of process and otherwise negligently breached their duty to each Plaintiff.
36. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.



37. Furthermore, the Defendant, William F. Scannell, Jr., Esq. Anthony Salerno, Esq. and/or Scannell and Salerno negligently failed to timely inform and advise the Booth's of the dismissal of the case by the Superior Court which further deprived each Plaintiff of an opportunity to intervene on their own.
38. The aforementioned failures constitute a breach of duty by Attorney William F. Scannell, Jr.; Attorney Anthony Salerno and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.
39. The aforementioned breaches of duty of Attorney Scannell, Attorney Salerno and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court.
40. The Booth's did not learn of the dismissal of their case until July, 2004.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Scannell and Salerno in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT IV**

**DIANE BOOTH – BREACH OF CONTRACT AGAINST  
WILLIAM F. SCANNELL, JR.**

41. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-40 of the Complaint.
42. Diane Booth repeats, reavers and incorporates by reference each proceeding paragraph and counts as if originally set forth herein.
43. On or about February 25, 2000, the Plaintiff Diane Booth retained Attorney William F. Scannell, Jr., and Attorney Anthony Salerno and entered into a contractual relationship with Attorney William F. Scannell, Jr., Attorney Anthony Salerno, and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.
44. As part of the contract, the Defendant William F. Scannell, Jr. agreed to perform the services faithfully and with due diligence.
45. The Defendant, William F. Scannell Jr., breached its contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Attorney William F. Scannell, Jr. for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT V**

**DIANE BOOTH – BREACH OF CONTRACT AGAINST  
ANTHONY SALERNO**

46. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-45 of the Complaint.
47. Diane Booth repeats, reavers and incorporates by reference each proceeding paragraph and counts as if originally set forth herein.
48. On or about February 25, 2000, the Plaintiff Diane Booth retained Attorney Anthony Salerno and Attorney William F. Scannell, Jr. and entered into a contractual relationship with Attorney Anthony Salerno, Attorney William Scannell, Jr. and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.
49. As part of the contract the Defendant Anthony Salerno, Esq., agreed to perform the services faithfully and with due diligence.
50. The Defendant, Anthony Salerno, Esq., breached its contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Attorney Anthony Salerno for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT VI**

**DIANE BOOTH – BREACH OF CONTRACT AGAINST  
SCANNELL AND SALERNO**

51. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-50 of the Complaint.
52. Diane Booth repeats, reavers and incorporates by reference each preceding paragraph and count as if originally set forth herein.
53. On or about February 25, 2000, the Plaintiff Diane Booth retained Attorney William F. Scannell, Jr. and Attorney Anthony Salerno and entered into a contractual relationship with Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.
54. As part of the contract the Defendant William F. Scannell, Jr. and Attorney Anthony Salerno and the law firm of Scannell and Salerno agreed to perform the services faithfully and with due diligence.

55. The Defendant, William F. Scannell Jr. and Attorney Anthony Salerno and the law firm of Scannell and Salerno breached its contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, Diane Booth respectfully requests that judgment enter in her favor as against Scannell and Salerno for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

#### **COUNT VII**

#### **JAMES BOOTH - NEGLIGENCE AGAINST**

#### **WILLIAM F. SCANNELL, JR.**

56. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-55 of the Complaint.
57. On or before March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.
58. On or before February 25, 2000, the Plaintiff, Diane Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of

Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.

59. On or about February 25, 2000, the Plaintiff, James Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.
60. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Scannell, Attorney Salerno and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.
61. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P. 4 and subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process, failed to properly plead for the appropriate and necessary relief from the Superior Court concerning service of process and otherwise negligently breached their duty to each Plaintiff and breached their contract.
62. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.

63. Furthermore, the Defendant, William F. Scannell, Jr., Esq., Anthony Salerno, Esq. and/or Scannell and Salerno negligently failed to timely inform and advise the Booth's of the dismissal of the case by the Superior Court which deprived each Plaintiff of an opportunity to intervene on their own.

64. The aforementioned failures constitute a breach of duty by Attorney William F. Scannell, Jr., Attorney Anthony Salerno and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.

65. The aforementioned breaches of duty of Attorney Scannell, Attorney Salerno and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court and ensuing loss of damages.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Attorney William F. Scannell, Jr., in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

#### **COUNT VIII**

#### **JAMES BOOTH - NEGLIGENCE AGAINST**

#### **ANTHONY SALERNO**

66. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-65 of the Complaint.

67. On or before March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.
68. On or before February 25, 2000, the Plaintiff, Diane Booth, retained Attorney Anthony Salerno, Attorney William F. Scannell and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.
69. On or about February 25, 2000, the Plaintiff, James Booth, retained Attorney Anthony Salerno, Attorney William F. Scannell and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.
70. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Salerno, Attorney Scannell and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.
71. Attorney Salerno, Attorney Scannell and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P. 4 and subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process, failed to properly plead for the appropriate and necessary relief from the Superior



Court concerning service of process and otherwise negligently breached their duty to each Plaintiff and their contractual obligations.

72. Attorney Salerno, Attorney William F. Scannell and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.

73. Furthermore, the Defendant, Anthony Salerno, Esq., William F. Scannell, Jr., Esq. and/or Scannell and Salerno negligently failed to timely inform and advise the Booth's of the dismissal of their case by the Superior Court which deprived each Plaintiff of an opportunity to intervene on their own.

74. The aforementioned failures constitute a breach of duty by Attorney Anthony Salerno, Attorney William F. Scannell and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.

75. The aforementioned breaches of duty of Attorney Salerno, Attorney Scannell and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Attorney Anthony Salerno in the amount of \$2,000,000.00 together

with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT IX**

**JAMES BOOTH - NEGLIGENCE AGAINST  
SCANNELL AND SALERNO**

76. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-75 of the Complaint.
77. On or before March 6, 1997, the Plaintiff, Diane Booth, was injured in an accident which occurred in the course of her employment. Said accident occurred on the business premises owned, operated and controlled by ACT, Inc., located at 2 Cabot Road, Hudson, MA.
78. On or before February 25, 2000, the Plaintiff, Diane Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent her in her tort claim for personal injuries stemming from the aforementioned industrial accident.
79. On or about February 25, 2000, the Plaintiff, James Booth, retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his claim for personal injuries/loss of consortium relative to the aforementioned injuries of his wife, Diane Booth.

80. On or about March 6, 2000 (the date the Statute of Limitations expired), Attorney Scannell, Attorney Salerno and/or Scannell and Salerno filed a tort suit against ACT, Inc. in the Worcester Superior Court in Worcester, MA.
81. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno negligently failed to effectuate timely service of process for said lawsuit in accordance with Mass.R.Civ. P.4, subsequently failed to take the steps necessary to obtain a proper enlargement of time to effectuate service of process, failed to properly plead for the appropriate and necessary relief from the Superior Court concerning service of process and otherwise negligently breached their duty to each Plaintiff.
82. Attorney Scannell, Attorney Salerno and/or Scannell and Salerno failed to protect and prosecute the rights of Diane Booth and James Booth to recover for their personal injuries stemming from the aforementioned accident and failed to properly, zealously and carefully prosecute the claims of both Diane Booth and James Booth.
83. Furthermore, the Defendant, William F. Scannell, Jr., Esq., Anthony Salerno, Esq., and/or Scannell and Salerno negligently failed to timely inform and advise the Booth's of the dismissal of their case by the Superior Court which further deprived each Plaintiff of an opportunity to intervene on their own.

84. The aforementioned failures constitute a breach of duty by Attorney William F. Scannell, Jr., Attorney Anthony Salerno and/or Scannell and Salerno as owed to the Plaintiff, Diane Booth and the Plaintiff, James Booth.

85. The aforementioned breaches of duty of Attorney Scannell, Attorney Salerno and/or Scannell and Salerno proximately lead to the dismissal of their tort claims by the Worcester Superior Court.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Scannell and Salerno in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT X**

**JAMES BOOTH – BREACH OF CONTRACT AGAINST**

**WILLIAM F. SCANNELL, JR.**

86. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-85 of the Complaint.

87. James Booth repeats, reavers and incorporates by reference each proceeding paragraph and counts as if originally set forth herein.

88. On or about February 25, 2000, the Plaintiff James Booth retained Attorney William F. Scannell, Jr. and Attorney Anthony Salerno and entered into a

contractual relationship with Attorney William F. Scannell, Jr., and the law firm of Scannell and Salerno to represent him in his tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.

89. As part of the written contract the Defendant William F. Scannell, Jr. agreed to perform the services faithfully and with due diligence.

90. The Defendant, William F. Scannell Jr., breached his contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Attorney William F. Scannell, Jr. for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

#### **COUNT XI**

#### **JAMES BOOTH – BREACH OF CONTRACT AGAINST**

#### **ANTHONY SALERNO**

91. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-90 of the Complaint.

91. James Booth repeats, reavers and incorporates by reference each proceeding paragraph and counts as if originally set forth herein.

92. On or about February 25, 2000, the Plaintiff James Booth retained Attorney Anthony Salerno and Attorney William F. Scannell, Jr. and entered into a contractual relationship with Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.
93. As part of the Agreement the Defendant, Anthony Salerno, agreed to perform the services faithfully and with due diligence.
94. The Defendant, Anthony Salerno, breached his contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Attorney Anthony Salerno for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

**COUNT XII**

**JAMES BOOTH – BREACH OF CONTRACT AGAINST  
SCANNELL AND SALERNO**

95. The Plaintiff, Diane Booth incorporates by reference Paragraphs 1-94 of the Complaint.

96. James Booth repeats, reavers and incorporates by reference each preceding paragraph and count as if originally set forth herein.
97. On or before February 25, 2000, the Plaintiff James Booth retained Attorney William F. Scannell, Jr., Attorney Anthony Salerno and entered into a contractual relationship with Attorney William F. Scannell, Jr., Attorney Anthony Salerno and the law firm of Scannell and Salerno to represent him in his tort claim for personal injuries stemming from an industrial accident occurring on March 6, 2000.
98. As part of the contact the Defendant William F. Scannell, Jr. and Anthony Salerno and the law firm of Scannell and Salerno, agreed to perform the services faithfully and with due diligence.
99. The Defendant, William F. Scannell Jr. and Anthony Salerno and the law firm of Scannell and Salerno breached its contract as described above by failing to perform services faithfully and with due diligence and by otherwise failing to perform, as will be shown at trial.

**WHEREFORE**, the plaintiff, James Booth respectfully requests that judgment enter in his favor as against Scannell and Salerno for breach of contract in the amount of \$2,000,000.00 together with interest, costs and attorney's fees as well as any other relief that this Court deems meet and just.

Respectfully submitted,  
Diane Booth and James Booth  
By their attorney,

A handwritten signature in black ink, appearing to be 'C. Hug', written over a horizontal line.

Christopher N. Hug, Esq.  
BBO #: 546960  
The Law Office of  
Christopher N. Hug  
21 Merchants Row, 3<sup>rd</sup> Floor  
P.O. Box 961237  
Boston, MA 02196

Dated: August 9, 2005



05-40134 FDS

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

|   |  |
|---|--|
| <b>I. (a) PLAINTIFFS</b> Diane Booth<br>James Booth<br><br><b>(b) County of Residence of First Listed Plaintiff</b> <u>Colorado</u><br>(EXCEPT IN U.S. PLAINTIFF CASES)<br><br><b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> 617-227-0400<br>Christopher N. Hug, Esq.<br>P.O. Box 961237, Boston, MA 02196 | <b>DEFENDANTS</b> William F. Scannell, Jr.,<br>Anthony Salerno, and Scannell and<br>Salerno<br>County of Residence of First Listed Defendant <u>Worcester</u><br>(IN U.S. PLAINTIFF CASES ONLY)<br><br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE<br>LAND INVOLVED.<br><br>Attorneys (If Known) |
|---|--|

|   |   |   |   |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                            |                |                            |                            |
|---|---|---|---|---|---|--------------------------------|---|--------------------------|---------------------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| <b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)<br><br><input type="checkbox"/> 1 U.S. Government Plaintiff<br><input type="checkbox"/> 2 U.S. Government Defendant<br><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)<br>(For Diversity Cases Only)<br><br><table style="width:100%"> <tr> <td style="width:33%">Citizen of This State</td> <td style="width:10%">PTF <input type="checkbox"/> 1</td> <td style="width:10%">DEF <input checked="" type="checkbox"/> 1</td> <td style="width:47%">Incorporated or Principal Place of Business In This State</td> <td style="width:10%">PTF <input type="checkbox"/> 4</td> <td style="width:10%">DEF <input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table> | Citizen of This State                     | PTF <input type="checkbox"/> 1                                | DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input checked="" type="checkbox"/> 4 | Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen of This State   | PTF <input type="checkbox"/> 1  | DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4            | DEF <input checked="" type="checkbox"/> 4                 |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of Another State  | <input checked="" type="checkbox"/> 2   | <input type="checkbox"/> 2                | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5                | <input type="checkbox"/> 5                                |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen or Subject of a Foreign Country   | <input type="checkbox"/> 3  | <input type="checkbox"/> 3                | Foreign Nation  | <input type="checkbox"/> 6                | <input type="checkbox"/> 6                                |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                            |                |                            |                            |


| IV. NATURE OF SUIT (Place an "X" in One Box Only)   |   |  |   |  |   |
|---|---|--|---|--|---|
| <b>CONTRACT</b><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input checked="" type="checkbox"/> 360 Other Personal Injury | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <b>FORFEITURE/PENALTY</b><br><input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <b>BANKRUPTCY</b><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395f)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS--Third Party 26 USC 7609 | <b>OTHER STATUTES</b><br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |   |  |   |

|   |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|
| <b>V. ORIGIN</b> (Place an "X" in One Box Only)<br><input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|

|                            |   |
|----------------------------|---|
| <b>VI. CAUSE OF ACTION</b> | Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):<br><u>28 USC 1332</u><br>Brief description of cause:<br><u>Legal Malpractice</u> |
|----------------------------|---|

|                                     |   |  |
|-------------------------------------|---|--|
| <b>VII. REQUESTED IN COMPLAINT:</b> | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23<br>DEMAND \$ <u>\$2,000,000.00</u> | CHECK YES only if demanded in complaint:<br>JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|-------------------------------------|---|--|

|                                     |   |
|-------------------------------------|---|
| <b>VIII. RELATED CASE(S) IF ANY</b> | (See instructions): JUDGE _____ DOCKET NUMBER _____ |
|-------------------------------------|---|

|                    |   |
|--------------------|---|
| DATE <u>8/9/05</u> | SIGNATURE OF ATTORNEY OF RECORD  |
|--------------------|---|

|                 |              |                    |             |                  |
|-----------------|--------------|--------------------|-------------|------------------|
| RECEIPT # _____ | AMOUNT _____ | APPLYING IFP _____ | JUDGE _____ | MAG. JUDGE _____ |
|-----------------|--------------|--------------------|-------------|------------------|

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

05-40134 FDS

1. Title of case (name of first party on each side only) DIANE BOOTH V. WILLIAM F. SCANNELL, JR.,

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- X III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐ Central Division ☒ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Christopher N. Hug, Esq.ADDRESS P.O. Box 961237, Boston, MA 02196TELEPHONE NO. 617-227-0400